



**KOPELMAN AND PAIGE, P.C.**  
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April 30, 2009

**William Hewig III**  
whewig@k-plaw.com

BY E-MAIL: [Catrice.williams@state.ma.us](mailto:Catrice.williams@state.ma.us) and  
BY HAND DELIVERY

Department of Telecommunications and Cable  
Two South Station, 4<sup>th</sup> Floor  
Boston, MA 02110  
**ATTN:** Catrice Williams, Secretary

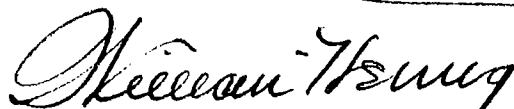
Re: Petition By Verizon New England, Inc. for Amendment of Cable Division Form 500  
DTC 08-12

Dear Ms. Williams:

Pursuant to 220 CMR §1.03, enclosed please find the following:

- (a) Petition of Town of Tyngsborough, Massachusetts To Intervene and Participate in Proceedings;
- (b) Petitioner Town of Tyngsborough's Statement of Initial Comments; and
- (c) Certificate of Service.

Very truly yours,



William Hewig, III

WH/eon

Enc.

cc: Board of Selectmen  
Town Administrator  
Cable Advisory Committee

372800/TYNG/0024

CERTIFICATE OF SERVICE

I, William Hewig III, hereby certify that on the below date, I served a copy of the foregoing Petition of Town of Tyngsborough, Massachusetts To Intervene and Participate in Proceedings, and Petitioner Town of Tyngsborough's Statement of Initial Comments, by hand delivery to the following counsel of record:

Bruce P. Beausegour, Esq.  
Alexander W. Moore, Esq.  
Verizon New England, Inc.  
185 Franklin Street, 13<sup>th</sup> Floor  
Boston, MA 02110

Dated: \_\_\_\_\_

*April 30, 2009*

*William Hewig III*

William Hewig III

COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

Petition by Verizon New England, Inc. for  
Amendment of Cable Division's Form 500  
"Cable Operator's Annual Report of Consumer  
Complaints"

DTC 08-12

**PETITIONER TOWN OF TYNGSBOROUGH, MASSACHUSETTS' STATEMENT OF  
INITIAL COMMENTS**

Pursuant to the Commonwealth of Massachusetts' Department of Telecommunications and Cable's ("DTC") request for comment and notice of public hearing, dated March 27, 2009, and also pursuant to 220 CMR §1.03(1), the petitioner, Town of Tyngsborough ("Tyngsborough"), submits herewith its Statement of Initial Comments as follows:

- (1) The continuing availability of subscribership numbers within the public domain is essential for cable television issuing authorities to monitor the compliance of cable operators with their legal obligations under M.G.L. c.166A, §9, as well to monitor compliance with parallel provisions contained in most currently-effective cable licenses;
- (2) The continuing availability of subscribership numbers within the public domain is also an essential tool which issuing authorities need in order to conduct effective license renewal negotiations in the context of a competitive market;
- (3) Verizon has failed to make its case that disclosure of subscribership numbers in the public domain has somehow adversely affected its ability to effectively compete; and
- (4) Transparency is essential to the proper functioning of a competitive market when the participants are licensed by, and regulated by a public authority; permitting regulated

license-holders to lurk behind veils of secrecy, free from public scrutiny, will serve to promote neither competition nor the public interest.

Respectfully submitted,

TOWN OF TYNGSBOROUGH

By its attorney,

A large, stylized handwritten signature in black ink, which appears to read "William Hewig, III". The signature is written over a horizontal line and extends upwards and to the right, looping around the text below.

William Hewig, III (BBO# 541940)  
Kopelman and Paige, P.C.  
Town Counsel  
101 Arch Street, 12<sup>th</sup> Floor  
Boston, MA 02110-1109  
(617) 556-0007

Date:

372832/TYNG/002

April 30, 2009

COMMONWEALTH OF MASSACHUSETTS  
DEPARTMENT OF TELECOMMUNICATIONS AND CABLE

Petition by Verizon New England, Inc. for  
Amendment of Cable Division's Form 500  
"Cable Operator's Annual Report of Consumer  
Complaints"

DTC 08-12

**PETITION OF TOWN OF TYNGSBOROUGH, MASSACHUSETTS TO INTERVENE  
AND PARTICIPATE IN PROCEEDINGS**

Now comes the Town of Tyngsborough, Massachusetts ("Tyngsborough"), by and through its attorney William Hewig III, and respectfully moves the Department of Telecommunications and Cable ("DTC") for leave to intervene and to participate in the proceedings of the above-captioned matter, including leave to be heard at the May 15, 2009 hearing. Pursuant to 220 CMR §1.03(1), Tyngsborough states as follows:

(a) Name and Address of Petitioner (Including Those For Whom Leave Be Heard at Hearing is Requested):

Town of Tyngsborough, Massachusetts, by and through:

William Hewig III, Esq.  
Kopelman and Paige, P.C.  
101 Arch Street, 12<sup>th</sup> Floor  
and  
Boston, MA 02110

Its attorney

Rosemary Cashman  
Town Administrator  
Tyngsborough Municipal  
Building  
25 Bryants Lane  
Tyngsborough, MA 01879

Its Town Administrator

Mr. Richard Lemoine  
Selectman  
Tyngsborough Town Hall  
25 Bryants Lane  
Tyngsborough, MA 01879

Member of Its Board of  
Selectmen

(b) Manner in Which Petitioner is Affected by the Proceeding:

Tyngsborough is the Issuing Authority for a cable television license issued to AT&T Broadband (now Comcast) on July 9, 2001, and a competitive license issued to Verizon New England, Inc. on October 30, 2006. Tyngsborough also manages and oversees the

provision of public access cable television funding and services within the Town by and through its cable advisory committee. As such, Tyngsborough has an interest in ensuring that all information essential to the monitoring of compliance with its two licenses, and all information and tools essential to effective negotiations for future cable television renewal licenses be kept soundly within the public domain.

(c) Contention of the Petitioner:

Subscribership numbers are essential to monitor the compliance of cable operators with cable television licenses issued by the Town and with state statutes; subscribership numbers are also an essential tool for effective renewal license negotiations in the context of a competitive market; Verizon has failed to make its case that disclosure of subscribership numbers adversely affects its ability to effectively compete; transparency is essential to the proper functioning of a competitive market when the actors are licensed by a public authority; and permitting a publicly licensed cable operator to lurk behind veils of secrecy will not promote competition or the public interest.

(d) Relief Sought:

Tyngsborough requests that Verizon's petition be denied by the DTC.

(e) Statutory or Other Authority for Relief, and Nature of Evidence Petitioner Will Present:

DTC June 8, 2007 ruling; and

M.G.L. c.166A, §10; and others to be identified.

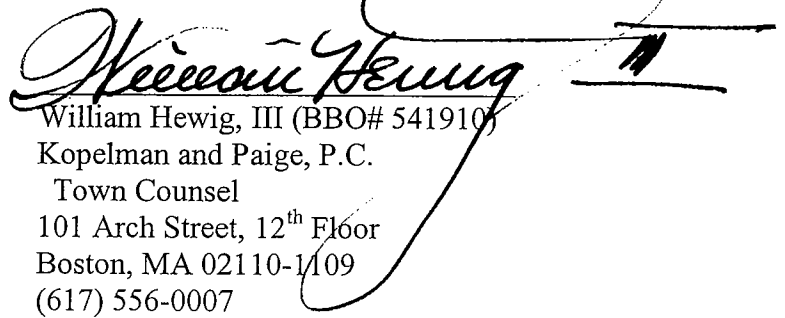
(f) Nature of the Evidence Petitioner Will Present if Petition Is Granted:

Petitioner will present documentary evidence in the form of affidavits, briefs and oral testimony.

Respectfully submitted,

TOWN OF TYNGSBOROUGH

By its attorney,

  
William Hewig, III (BBO# 541910)  
Kopelman and Paige, P.C.  
Town Counsel  
101 Arch Street, 12<sup>th</sup> Floor  
Boston, MA 02110-1109  
(617) 556-0007

Date: April 30, 2009.

372794/TYNG/0024